IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COMFORT RESEARCH, LLC, Plaintiff, v. ACE BAYOU CORPORATION, Defendant.	Case No: Judge:

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, COMFORT RESEARCH, LLC ("PLAINTIFF" or "COMFORT RESEARCH"), by and through its undersigned counsel, for its Complaint against Defendant, ACE BAYOU CORPORATION ("DEFENDANT" or "ACE") states the following. Allegations made on information and belief are premised on the belief that the same are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

NATURE OF THE CASE

1. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. §1, *et seq.* ("Federal Patent Act").

2. ACE, manufactures, offers to sell, and sells, without authorization, either express or implied, from COMFORT RESEARCH, a chair in direct violation of The Federal Patent Act.

3. COMFORT RESEARCH seeks injunctive and monetary relief to the fullest extent possible under The Federal Patent Act, as well as any such other relief as

the equities of the case may require and as this Court may deem just and proper.

PARTIES

4. COMFORT RESEARCH, LLC is a Michigan limited liability company having a principal place of business at 1719 Elizabeth Avenue NW, Grand Rapids, Michigan 49504.

5. Upon information and belief ACE BAYOU CORPORATION is a corporation organized under the laws of Louisiana, having a principal place of business at 3700 Desire Parkway, New Orleans, Louisiana 70126.

JURISDICTION AND VENUE

6. This Court has original jurisdiction over the subject matter by virtue of at least one of 28 U.S.C. §§1331, 1338(a), and 1338(b).

7. This Court has personal jurisdiction over ACE, and venue is proper in this judicial district pursuant to at least one of 28 U.S.C. §§1391(b)(2), 1391(c), 1400(a), and 1400(b). Upon information and belief ACE is actively doing business in this judicial district, and/or has committed certain acts of patent infringement in this judicial district. ACE makes, distributes, offers for sale, and/or sells frameless chairs in the State of Michigan. ACE is subject to the personal jurisdiction of this Court and is amenable to service of process pursuant to the Michigan long-arm statute, MI ST 600.705 (2003), and Fed. R. Civ. P. 4(e). Requiring ACE to respond to this action will not violate due process.

BACKGROUND

8. COMFORT RESEARCH is, among other things, a world leader in the innovation, design, and manufacture of frameless furniture. COMFORT RESEARCH manufactures, distributes, and sells its frameless beanbag chairs, loungers, loveseats, and pet beds to companies and end users around the world.

9. COMFORT RESEARCH is actively philanthropic both locally and nationally – donating thousands of chairs, as well as proceeds from the sales of chairs, to organizations such as Grand Rapids Urban Oasis, The Wounded Warrior Project, Sunshine on a Ranney Day, the Children's Hospital of Los Angeles, and East Jefferson YMCA of New Orleans – just to name a few.

10. Prior to April 9, 2015, Daniel C. George II, Matthew Jung, and Jean Joseph conceived of a new frameless chair.

11. On November 8, 2016, the United States Patent and Trademark Office duly and legally issued U.S. Design Patent No. D770,792 S ("the '792 patent"), entitled "Chair" to Daniel C. George II, Matthew Jung, and Jean Joseph. (See Exhibit A.)

12. All rights in the '792 patent have been assigned to Comfort Research, LLC.

13. Comfort Research, LLC is the sole owner of the '792 patent and has the right to enforce and recover damages for infringement of the '792 patent.

14. In an improper attempt to unlawfully profit from the goodwill and charitable missions of COMFORT RESEARCH, ACE has begun selling a chair that infringes COMFORT RESEARCH's intellectual property in direct violation of The Federal Patent Act.

15. As the side-by-side comparisons shown below reveal, ACE has misappropriated COMFORT RESEARCH's chair design in the accused product.

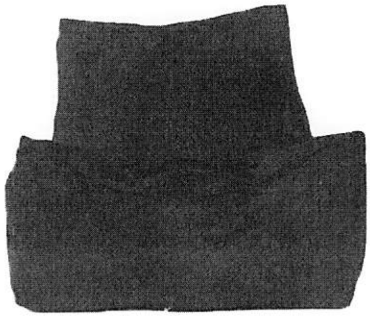
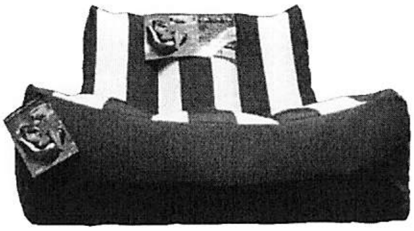
'792 Patent Figures	Accused Product
Figure 1	
 Figure 2	

Figure 3

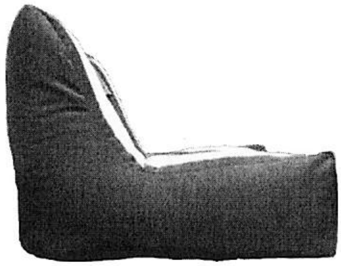


Figure 4

FLOATING LOUNGE CHAIR
FLOATING LOUNGE CHAIR

Figure 5

COUNT I – PATENT INFRINGEMENT OF U.S. DESIGN PATENT NO. D770,792 BY ACE

16. Plaintiff restates and incorporates by reference herein paragraphs 1-15.

17. ACE makes or has made, uses, offers to sell and/or sells one or more frameless chairs (*e.g.*, the chairs sold at Walmart Stores, Inc. having the UPC code 094338953107 from lot number 20170310C) which infringe upon one or more claims of the '792 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

18. Infringement of the '792 patent by ACE has caused, and will continue to cause, COMFORT RESEARCH to suffer damages, including, but not limited to, lost sales, lost profits, lost royalties and/or price erosion in an amount to be determined by the trier of fact.

19. Unless restrained and enjoined by this Court, ACE will continue to infringe the '792 patent, resulting in substantial, continuing and irreparable damages to COMFORT RESEARCH.

20. The actions of ACE are "exceptional" within the meaning of 35 U.S.C. §285.

PRAYER FOR RELIEF

WHEREFORE COMFORT RESEARCH respectfully demands judgment against ACE as follows:

A. Declaring that ACE has infringed the '792 patent;

B. Pursuant to 35 U.S.C. §283, permanently enjoining and restraining ACE and its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from further acts of infringement of the '792 patent;

C. Pursuant to 35 U.S.C. §284, awarding to COMFORT RESEARCH damages, including lost profits, together with prejudgment interest, post judgment interest, and costs, adequate to compensate COMFORT RESEARCH for ACE's acts of infringement of the '792 patent;

D. Declaring that ACE's infringement has been willful and this is an exceptional case pursuant to 35 U.S.C. §285 and awarding COMFORT RESEARCH treble damages and reasonable attorneys' fees against ACE for infringement of the '792 patent;

E. Preliminarily and permanently restrain and enjoin ACE from further infringement of COMFORT RESEARCH's patent;

F. Order ACE to pay damages adequate to compensate COMFORT RESEARCH for the acts of patent infringement by ACE and ACE's profits from its sales of goods in violation of the law as described in this Complaint;

G. Order ACE to pay all applicable statutory damages including exceptional and/or treble damages;

H. Order ACE to pay COMFORT RESEARCH's expenses, interest, and costs including reasonable attorney's fees;

I. Order ACE to pay COMFORT RESEARCH for rehabilitative advertising and price point restoration; and

J. Awarding COMFORT RESEARCH such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

COMFORT RESEARCH, LLC respectfully demands a trial by jury on all issues so triable.

Respectfully submitted,

COMFORT RESEARCH, LLC

Dated: May 17, 2017

/William L. King III/
By: One of the Attorneys for Plaintiff

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